

**DNRC Policy #:** 3-0210

**Name:** Overtime and nonexempt compensatory time

**Reference MOM:** 3-0210

**Reference:** FLSA, Title 29 CFR, CHAP. 500

**Approval Signature:** /ss/ Bud Clinch

**Effective Date:** 6/17/98

## For Employees Covered Under the Fair Labor Standards Act (FLSA)

# Overtime and Nonexempt Compensatory Time (MOM Policy 3-0210)

It is the policy of the Department of Natural Resources and Conservation to comply with the federal Fair Labor Standards Act of 1938.

1. NONEXEMPT COMPENSATORY TIME IS NOT AVAILABLE FOR FIRE SUPPRESSION --- ALL FIRE-SUPPRESSION OVERTIME IS PAID AT TIME AND ONE-HALF PAY. *See also 3-0210B Addendum to Overtime Policy for DNRC Firefighters.*
2. Supervisory personnel must ensure that overtime hours are necessary in order to accomplish a departmental task, and that the work unit will not be disrupted when an employee takes earned nonexempt compensatory time off.
3. An employee's supervisor must approve the accrual of nonexempt compensatory hours and/or overtime in advance of the performance of any overtime work.
4. Nonexempt employees authorized to work in excess of forty (40) hours per week must be compensated for the excess time worked in one of the following methods:
  - (a) Cash compensation of excess hours at 1½ times their hourly rate; or,
  - (b) Upon mutual agreement of the employee and management, an employee may be allowed to accrue and use nonexempt compensatory time in lieu of cash compensation. This time will accrue at the rate of 1½ hours for each hour of overtime worked.

An employee must sign a nonexempt compensatory time agreement to be attached to the biweekly work report. If this form is signed by the employee and the supervisor, it waives the employee's right to overtime cash compensation and allows the accrual of compensatory time for that pay period only. A form must be signed and attached to each

work report that includes accrual of nonexempt compensatory time. If there is no form signed and attached to the work report, the employee will receive overtime cash compensation.

5. Supervisors and employees should temporarily adjust the hours of the work week whenever possible to avoid the accrual of overtime or compensatory time.

6. Nonexempt compensatory time may not be accrued beyond sixty (60) hours. Employees will receive overtime pay for any authorized overtime worked beyond the accrual limit.

7. Overtime and nonexempt compensatory time shall be recorded in no smaller than increments of 1/10-hour. (MOM Policy 3-0210, section 2.21.1711)

### Timetable:

6 minutes = .1 hour	12 minutes = .2 hour
18 minutes = .3 hour	24 minutes = .4 hour
30 minutes = .5 hour	36 minutes = .6 hour
42 minutes = .7 hour	48 minutes = .8 hour
54 minutes = .9 hour	60 minutes = 1.0 hour

**For example,** if an employee works 1.1 hours  $\times$  1.5 = 1.65, the employee will be credited with 1.7 hours of nonexempt compensatory time.

8. Actual hours worked must be recorded on the work report on the day that the hours are worked. Nonexempt compensatory time/overtime is not earned until an employee has 40 hours in a pay status. The payroll office will calculate the overtime and nonexempt compensatory time. If a nonexempt comp time agreement form (see #4) is attached, the compensatory hours must be recorded in the "COMP EARN" column of the work report. If the employee prefers overtime pay, the hours over forty (40) must be recorded in the "OT PAY" column of the work report.

**For example,** if an employee works 41.5 hours in a week, actual hours must be recorded for each day. The last day of the work week should show the extra 1.5 hours --- and 1.5 must be recorded in the appropriate column ("OT PAY" OR "COMP EARN").

9. Compensatory time off must be taken in minimum increments of one-half (.5) hour. Time off is left to the discretion of the immediate supervisor and the employee.

10. When an employee transfers to another position within the department, nonexempt compensatory time is cashed out prior to the transfer at the employee's current rate of pay prior to the transfer.

11. When an employee's position is reclassified, the FLSA classification must be evaluated. If the reclassification of a position results in changing the FLSA classification from nonexempt to exempt, all nonexempt compensatory time must be cashed out at the rate of pay prior to reclassification. If reclassification of the position results in the FLSA status changing from exempt to nonexempt, the exempt compensatory time must be used prior to using nonexempt compensatory time.

12. Nonexempt compensatory time is cashed out at the current rate of pay when an employee terminates employment with the department. Compensatory time cannot transfer between agencies.

13. Seasonal employees' nonexempt compensatory time will be cashed out at the end of each season.

14. Employees covered under a union agreement must follow the terms of the union contract.

15. The department reserves the right to pay for accrued compensatory time at any time, and it will be paid at the regular rate earned by the employee at the time the employee receives such payment.

## **Nonexempt Comensatory Time Instructions**

1. The agreement form must be signed by the employee and supervisor and dated *before* the extra hours are worked.

2. Attach the agreement form to the back of the biweekly work report.

3. The extra hours must be listed in the "COMP EARN" column on the biweekly work report.

4. Do not total the comp time hours on the lower part of the biweekly work report. The payroll office will calculate the compensatory hours earned.

## **Nonexempt Compensatory Time Agreement**

I understand that my current position has been determined by the agency to be nonexempt according to the federal Fair Labor Standards Act (FLSA). I also understand that I am eligible to receive overtime pay at one and one-half times my current rate of pay, OR, in lieu thereof, to receive paid time off at the rate of one and one-half hours off for each hour of employment for which overtime compensation is required.

I voluntarily waive my right to overtime pay for compensation of overtime worked in the payroll period ending and elect, in lieu thereof, to receive FLSA compensatory time, which

time will accrue and be credited to my payroll account records as FLSA compensatory time.

I acknowledge that I may use accrued FLSA compensatory time as paid time off according to the DNRC policies and procedures.

Employee Signature \_\_\_\_\_ Date\_\_\_\_\_

**Approved by:**

Supervisor\_\_\_\_\_ Date\_\_\_\_\_

A NONEXEMPT COMPENSATORY TIME AGREEMENT FORM MUST BE ATTACHED TO EACH BIWEEKLY WORK REPORT THAT INCLUDES EXTRA HOURS WORKED.